

(2019) 02 P&H CK 0169
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3712 Of 2016

Prof. Daljit Singh

APPELLANT

Vs

Guru Nanak Dev University, Amritsar Through Its Registrar &
Anr

RESPONDENT

Date of Decision : 05-02-2019

Acts Referred:

Citation : (2019) 02 P&H CK 0169

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : P.S. Khurana, Amrit Paul, Amit Singh Sethi

Final Decision : Disposed Off

Judgement

Harsimran Singh Sethi, J

In the present writ petition, the grievance which has been made by the petitioner is that the service which the petitioner had rendered in Punjabi University, Patiala from 24.04.1979 till 27.03.1995, has not been counted as a qualifying service for the grant of pensionary benefits. Further, a claim has been made that the petitioner is entitled for the increments from 09.05.2009 till 08.05.2012 despite being on extraordinary leave keeping in view the provisions of Guru Nanak Dev University Statute. The facts which have led to filing of the present writ petition are as under:-

The petitioner was selected and appointed as a Lecturer in the Department of Laws, Punjabi University, Patiala in April, 1979. Thereafter, he was promoted as a Reader in law in the year 1992. After the post of Professor of Law was advertised by the Guru Nanak Dev University, Amritsar, the petitioner who was then working as a Reader in the Punjabi University, Patiala, applied for the same and was selected as such. Upon his selection as a Professor in Law, the petitioner was appointed in Guru Nanak Dev University Regional Campus, Jalandhar, on 28.03.1995. The petitioner completed his probation period and became a

permanent employee of the Guru Nanak Dev University, Amritsar.

While working as such in Guru Nanak Dev University, petitioner went on deputation to the Army Institute of Law, Mohali as its Director on 22.06.1999. He kept working there till 21.06.2000 when he again came back and joined the Guru Nanak Dev University as a Professor in Law on 22.06.2000.

The petitioner continued working as Professor of Law in Guru Nanak Dev University, Amritsar till 08.05.2005, when he again joined as a Principal of Khalsa College, Amritsar. He kept on working there till his request for pre-mature retirement was accepted by the respondents on 08.05.2012. It is relevant to mention here that from 09.05.2005 till 08.05.2009, the petitioner was on deputation with the Khalsa College and from 09.05.2009 till the grant of voluntary retirement, the petitioner had sought extraordinary leave from Guru Nanak Dev University, Amritsar to serve in the Khalsa College, Amritsar.

The dispute in the present writ petition is that when the petitioner was prematurely retired on 08.05.2012, the service which the petitioner rendered in Punjabi University, Patiala from 25.04.1979 till 27.03.1995 was not counted as a qualifying service for computing the pensionary benefits. Further, the petitioner was not given the benefit of increment during the period when the petitioner remained on extraordinary leave to serve in Khalsa College, Amritsar from 09.05.2009 till 08.05.2012. For the grant of the said relief, the present writ petition has been filed.

Upon notice of motion, the respondents have filed the reply and the claim of the petitioner has been contested on the ground that in order to compute the service which the petitioner rendered in Punjabi University, Patiala from 25.04.1979 till 27.03.1995, the petitioner was required to deposit the benefits which he had received from Punjabi University Patiala. The relevant Clause 11 (a) (i) & 11 (b) (iii) of the Statute of Guru Nanak Dev University was put into service by the respondents.

"11 (a) Previous service of an employee who has joined this University after rendering service in Central Govt./Punjab Govt./Universities/Semi Govt. Bodies established by Centre/State Govt./Affiliated Colleges (covered under deficit scheme) will be counted towards pension in this University subject to the following conditions:

(i) As far as Universities in the State including Punjab University and offices of the Punjab Government/Centre Government are concerned, the employees who have rendered pensionable service in the Previous University/Government department, shall have to deposit the Pension Fund (including gratuity) received from the previous employer or the amount of Pension Fund (including gratuity) worked out on the basis of service rendered is made good by the employee concerned himself on joining the post or on adoption of the Pension Scheme.

11(b) (i) xxx xxx

(ii) xxx xxx

(iii) Those employees who were on pensionable establishment will have to deposit the prorata pension including gratuity of that service alongwith interest @ 10% per annum from the date of withdrawal the amount from that department to the date of refund of amount or the amount of pension including gratuity of that service alongwith interest @ 10% per annum is made good by the employee concerned himself in this University."

Learned counsel for the respondents states that as the petitioner failed to deposit the amount which the petitioner had received from Punjabi University, Patiala, he was held not entitled to count the service which petitioner rendered in Punjabi University, Patiala.

The statement made on behalf of the respondents has been controverted by the counsel for the petitioner stating that no amount was received by the petitioner upon his leaving the Punjabi University, Patiala in the year 1995 and therefore question of depositing the same as envisaged under Section 11 (a) (i) does not arise.

Learned counsel for the respondents states that unless and untill Guru Nanak Dev University, Amritsar get the pro-rata share either from the petitioner or from the Punjabi University, Patiala as the case may be, they cannot process the case of the petitioner for the grant of the benefit of the service rendered by him in Punjabi University, Patiala as a qualifying service for computing the pensionary benefits.

Learned counsel for the respondents states that vide letter dated 08.05.2017, the petitioner was informed that a sum of Rs.59,125/- is outstanding and in case the said amount is deposited, the University is willing to consider the case of the petitioner for the grant of benefit of considering his service rendered in Punjabi University, Patiala from 24.04.1979 till 27.03.1995 as a qualifying service.

Learned counsel for the petitioner states that though the petitioner is not required to deposit the said amount but to end the litigation, he will deposit the said amount within a period of two weeks.

In case, the petitioner deposits the said amount as asked by the University vide letter dated 08.05.2017, the respondents shall count the following service as a qualifying service for the grant of the pensionary benefits to the petitioner.

I. Qualifying Service in Guru Nanak Dev University, Amritsar

a. 28.03.1995 till 21.06.1999 = 4 years, 2 months and 25 days.

b. 22.06.2000 to 08.05.2005 = 4 years, 10 months and 17 days

Total = 9 years 1 month and 12 days.

II. Period Spent in Khalsa College, Amritsar a. 09.05.2005 to 08.05.2009 = 4 years

III. Service Rendered in Punjabi University Patiala from 25.04.1979 to 27.03.1995 = 15 years, 11 months and 27 days. Apart from the above calculated service, which is to be computed for pension, the petitioner will also be entitled for counting one year service from 22.06.1999 till 21.06.2000 (one year while computing the gratuity for which the petitioner will be entitled for) served in Army Institute of Law, Mohali.

Learned counsel for the respondents undertakes that in case the petitioner deposits the above amount as mentioned in the letter dated 08.05.2017, as undertaken by him, the Guru Nanak Dev University shall initiate action for computing the above mentioned service as a qualifying service for computing the pensionary benefits of the petitioner.

Let the exercise be completed by Guru Nanak Dev University, Amritsar within a period of two months after the petitioner deposits the amount of Rs.59,125/- and grant him the benefits of the said service towards computing of the retirement benefits and the monetary benefits for which he becomes entitled for.

Apart from this, counsel for the petitioner states that the petitioner is entitled for the increment for the period from 09.05.2009 till 08.05.2012 as the case of the petitioner is covered under Statute Rule 83 of the Guru Nanak Dev University Calendar, which is reproduced hereunder.

"83. Extra-Ordinary Leave

(i) Permanent teacher may be granted extra-ordinary leave:

(ii) Extra-ordinary leave shall always be without pay and allowances.

Extra-ordinary-Leave shall not count for increment except in the following cases:

(a) Leave taken on medical certificate.

(b) Cases where the Vice-Chancellor is satisfied that the leave was taken due to causes beyond the control of the teacher, such as inability to join or rejoin duty due to civil commotion or a natural calamity, provided that the teacher has not other kind of leave to his credit.

(c) Leave taken for pursuing higher studies. And

(d) Leave granted to accept an invitation to a teacher post or fellowship or research-cum-teaching post or an assignment for technical or academic work of importance.

(iii) Extra-ordinary Leave may be combined with any other leave except casual leave and special casual leave provided that the total period of continuous absence from duty on leave (including period of vacation when such vacation is taken in conjunction with leave) shall not exceed three years except, in cases where leave is taken on medical certificate. The total period of absence from duty shall in no case exceed five years in all during the entire period of service.

(iv) The authority empowered to grant leave may commute retrospectively periods of absence without leave into extra-ordinary leave."

Counsel for the respondents very fairly conceded that in case the petitioner makes a request for the grant of the said benefit, the same will also be considered with open mind on the basis of the Rule reproduced above.

Counsel for the petitioner also relies upon the judgment passed by this Court in CWP No.5142 of 1989 decided on 19.09.2011 titled as Mohinder Singh Dhaliwal Vs. DPI, Punjab and others to contend that the petitioner is entitled for the increment.

The respondents shall take into consideration the said judgment while deciding the case of the petitioner and an appropriate order in this regard shall be passed by the competent authority in respect of the claim being made by the petitioner in respect of grant of interest.

In view of the above, no further orders are called for to be passed in the present writ petition.

The present writ petition stands disposed of in above terms.